

ALLEN v. USA

MICHAEL LEVY, M.D.
2/24/2006

<p style="text-align: right;">Page 172</p> <p>1 section that says, "What about life preserving 2 interventions..."</p> <p>3 It says, "Therefore, there is no reason to 4 believe that even under the 'best of circumstances' he 5 would have survived this catastrophic event." 6 And in fairness, isn't that outside of your 7 area of expertise?</p> <p>8 A. Only insofar as my own experience. But in 9 terms of being able to look at a broad scope of 10 patients that I treat on a daily basis, perhaps. 11 But people that I have seen with subarachnoid 12 hemorrhage, such as what he presented with, 13 ultimately we know that he had a surreal -- severe 14 edema, which was ultimately life ending, that that 15 is where I come to that conclusion.</p> <p>16 Q. Right. And in -- but in terms of the 17 course of -- and what I'm trying to understand is -- 18 is linking this in the morning visit, where he's 19 neurologically intact at ANMC and then -- well, you 20 would agree with me that he didn't have any 21 treatment, aside from a shot of Phenergan, the 22 morning of April 19, 2003. Is that right?</p> <p>23 A. Sure.</p> <p>24 Q. So I mean, not only did he not get medical 25 treatment, he -- I mean, he was given a shot of</p>	<p style="text-align: right;">Page 174</p> <p>1 and went to -- went to sleep. Is that your 2 understanding?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And certainly he didn't -- he didn't 5 get any sort of medical intervention, is that right, 6 except for the Phenergan?</p> <p>7 A. Right.</p> <p>8 Q. Okay. So are you really in a position to 9 testify -- is this within your area of expertise, 10 that a patient who has got a subarachnoid bleed who 11 didn't undergo medical treatment, that there would 12 be really no chance of their surviving?</p> <p>13 A. I say this in context of what happened with 14 him. He didn't survive. His ultimate end point was 15 where it ended up, which was of having massive 16 ongoing subarachnoid hemorrhage with cerebral edema.</p> <p>17 Q. Okay. When you say "massive ongoing," 18 that -- I think I don't understand that. What was 19 the ongoing part?</p> <p>20 A. Well, enough to fill up his entire brain 21 pan with blood, so "massive" may be sort of an 22 exaggeration. I don't know how you say massive. 23 That's a bad choice.</p> <p>24 Q. Okay.</p> <p>25 A. But enough blood to end his life. That's</p>
<p style="text-align: right;">Page 173</p> <p>1 Phenergan. Would you give a shot of Phenergan to a 2 patient who had a subarachnoid hemorrhage?</p> <p>3 A. No.</p> <p>4 Q. And did you say no?</p> <p>5 A. "No." I might in addition to other things, 6 and that might be all I did for him, actually, if 7 all the problem was was vomiting and -- but that 8 wouldn't be the only therapy I might think of, if 9 that's what you're asking.</p> <p>10 Q. Right. Well, you wouldn't give him a shot 11 of Phenergan and send him home. Is that correct?</p> <p>12 A. If I knew that they had a subarachnoid 13 hemorrhage, I would not give him a shot of Phenergan 14 and send him home.</p> <p>15 Q. Okay. And so Mr. Allen was given a shot of 16 Phenergan and essentially discharged. And -- and 17 from there, you know from his wife's testimony that 18 he walked around Sam's. Is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that then -- then did you note that he 21 had unloaded the truck --</p> <p>22 A. Yes. He helped in unloading.</p> <p>23 Q. -- at the hotel where they were staying?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And that then he just laid down</p>	<p style="text-align: right;">Page 175</p> <p>1 massive enough, I guess.</p> <p>2 Q. Right. And then when you said ongoing, 3 that's what I'm not sure I understand, the word 4 "ongoing."</p> <p>5 A. Well, something had to happen to cause it 6 to bleed and basically fill the -- it wasn't just a 7 little bleed. He had a significant subarachnoid 8 hemorrhage.</p> <p>9 Q. Right. But are you saying that that was 10 just bleeding all day long or did --</p> <p>11 A. I --</p> <p>12 Q. -- that happen as --</p> <p>13 A. I clearly wouldn't be qualified to say one 14 way or the other --</p> <p>15 Q. Okay. And you're --</p> <p>16 A. -- whether it was one huge spurt or whether 17 it was ongoing bleeding.</p> <p>18 Q. Okay. And you're not qualified to say how 19 long it would take to develop the edema that was 20 seen on the scans --</p> <p>21 A. That's correct.</p> <p>22 Q. -- at Providence that day. Is that 23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. So do you -- so do you really think you're</p>

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1 he at ANMC at the time that Todd Allen presented to
2 ANMC?

3 **A. That's that I'm saying. I don't really**
4 **know.**

5 Q. Okay.

6 **A. I would have -- you know, go back and look**
7 **at records and things, see when he came to town.**

8 Q. Okay. If Mr. Allen had been stable, that
9 is, neuro- -- neurologically intact and stable,
10 would there be any question that he would be
11 transported to Seattle?

12 **A. The only question would be whether or not**
13 **the local neurosurgeons would get involved in his**
14 **care.**

15 Q. Okay. And can you say whether or not the
16 local neurosurgeons would get involved in his care?

17 **A. There was a period of time when they**
18 **wouldn't. And I don't know if this particular time,**
19 **when he presented, was that time. There was a**
20 **period of time when they were doing basically no**
21 **aneurysm surgery up here.**

22 Q. Okay. And do you have any -- do you know
23 when they started doing that?

24 **A. No. I was -- actually tried to find that**
25 **out, and I wasn't very successful yet.**

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1 Q. How --

2 **A. And I still --**

3 Q. How did you try to find that out?

4 **A. I tried to see if I could get the**
5 **neurosurgeons to look at their billing records for**
6 **me to see if they were billing any aneurysm**
7 **surgeries.**

8 Q. And let me guess that you couldn't get them
9 to do that.

10 **A. (No response.)**

11 Q. Okay. Were you -- did you talk to any of
12 the neurosurgeons in town about this case?

13 **A. Not this case per se. I talked to them in**
14 **generalities without any reference to anything, just**
15 **about, you know, would you operate on such a person**
16 **as this or that?**

17 Q. And what did you learn?

18 **A. That unless -- that no one does emergency**
19 **surgery in this town for aneurysms.**

20 Q. That no one does emergency surgery in this
21 town for aneurysms. That's what you learned?

22 **A. For subarachnoid -- for -- for cerebral**
23 **aneurysms.**

24 Q. Sure. And was that the case in 2003?

25 **A. And in terms of -- by "emergency surgery,"**

50 (Pages 188 to 191)